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## Copyright Royalty Board

### 37 CFR Part 386

[Docket No 22-CRB-0008-SA-COLA (2023)]

## Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates

**AGENCY:** Copyright Royalty Board (CRB), Library of Congress.

**ACTION:** Final rule; cost of living adjustment.

**SUMMARY:** The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 7.7% in the royalty rates satellite carriers pay for a compulsory license under the Copyright Act. The COLA is based on the change in the Consumer Price Index from October 2021 to October 2022.

**DATES:** *Effective date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

*Applicability date:* These rates are applicable to the period January 1, 2023, through December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Anita Brown, (202) 707-7658, [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** The satellite carrier compulsory license establishes a statutory copyright licensing scheme for the distant retransmission of television programming by satellite carriers. 17 U.S.C. 119. Congress created the license in 1988 and reauthorized the license for additional five-year periods until 2019 when it made the license permanent.<sup>1</sup>

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<sup>1</sup> The most recent five-year reauthorization was pursuant to the STELA Reauthorization Act of 2014, Public Law 113-200. The license was made permanent by the Satellite Television Community Protection and Promotion Act of 2019, Pub. L. 116-94, div. P, title XI, § 1102(a), (c)(1), 133 Stat. 3201, 3203.

On August 31, 2010, the Copyright Royalty Judges (Judges) adopted rates for the section 119 compulsory license for the 2010–2014 term. *See* 75 FR 53198. The rates were proposed by Copyright Owners and Satellite Carriers<sup>2</sup> and were unopposed. *Id.* section 119(c)(2) of the Copyright Act provides that, effective January 1 of each year, the Judges shall adjust the royalty fee payable under section 119(b)(1)(B) “to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) [CPI–U] published by the Secretary of Labor before December 1 of the preceding year.” Section 119 also requires that “[n]otification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.” 17 U.S.C. 119(c)(2).

The change in the cost of living as determined by the CPI-U during the period from the most recent index published before December 1, 2021, to the most recent index published before December 1, 2022, is 7.7%.<sup>3</sup> Application of the 7.7% COLA to the current rate for the secondary transmission of broadcast stations by satellite carriers for private home viewing —32 cents per subscriber per month — results in a rate of 34 cents per subscriber per month (rounded to the nearest cent). *See* 37 CFR 386.2(b)(1). Application of the 7.7% COLA to the current rate for viewing in commercial establishments —65 cents per subscriber per month —results in a rate of 70 cents per subscriber per month (rounded to the nearest cent). *See* 37 CFR 386.2(b)(2).

### **List of Subjects in 37 CFR Part 386**

Copyright, Satellite, Television.

### **Final Regulations**

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<sup>2</sup> Program Suppliers and Joint Sports Claimants comprised the Copyright Owners while DIRECTV, Inc., DISH Network, LLC, and National Programming Service, LLC, comprised the Satellite Carriers.

<sup>3</sup> On November 10, 2022, the Bureau of Labor Statistics announced that the CPI-U increased 7.7% over the last 12 months.

In consideration of the foregoing, the Judges amend part 386 of title 37 of the Code of Federal Regulations as follows:

**PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS**

1. The authority citation for part 386 continues to read as follows:

Authority: 17 U.S.C. 119(c), 801(b)(1).

2. Section 386.2 is amended by adding paragraphs (b)(1)(xiv) and (b)(2)(xiv) to read as follows:

**§ 386.2 Royalty fee for secondary transmission by satellite carriers.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(xiv) 2023: 34 cents per subscriber per month.

(2) \* \* \*

(xiv) 2023: 70 cents per subscriber per month.

Dated: November 28, 2022.

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David P. Shaw,  
Chief Copyright Royalty Judge.  
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